

### **REMARKS**

Claims 51-102 were previously pending. Claims 51-57 and 74-102 have been canceled without prejudice to Applicants pursuing these claims in a related application. Accordingly, claims 58-73 are pending.

#### **Rejections Under 35 U.S.C. § 112**

The rejection of claims 51-57 and 96-102 under 35 U.S.C. § 112, first paragraph, as allegedly lacking written description is respectfully traversed. For the reasons of record, Applicants respectfully maintain that the specification provides sufficient description and guidance for the claimed compositions. Nevertheless, to further prosecution, Applicants have canceled claims 51-57 and 96-102 without prejudice to pursuing these claims in a related application. Accordingly, this rejection has been rendered moot, and Applicants therefore respectfully request that this rejection be withdrawn.

#### **Double Patenting**

The rejection of claims 51-58, 67 and 96-102 under the judicially created doctrine of obviousness-type double patenting over claims 16-29 and 51-84 of U.S. Patent No. 6,395,524, is respectfully traversed. Applicants point out that this rejection has been rendered moot with respect to claims 51-57 and 96-102 in view of the cancellation of these claims. With regard to the rejection of claims 58 and 67, Applicants submit herewith a Terminal Disclaimer over U.S. Patent No. 6,395,524. Also submitted herewith is the required Statement under 37 C.F.R. § 3.73(b) executed on behalf of the assignee, the University of Washington. In light of the filing of a Terminal Disclaimer, Applicants respectfully request that the obviousness-type double patenting rejection be withdrawn.

#### **Regarding the Allowability of Claims and Rejoinder of Species**

Applicants note that the only rejection of claims 58 and 67 is the obviousness-type double patenting rejection. In light of the Terminal Disclaimer filed herewith, Applicants respectfully submit that claims 58 and 67 should be allowable. Moreover, Applicants respectfully submit that

the additional species claims that depend from generic linking claim 58 and which are currently withdrawn, claims 59-66 and 68-73, should be rejoined and considered allowable.

As indicated in the Restriction Requirement mailed July 23, 2002, "[U]pon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141." In view of the allowability of generic claim 58 as discussed above, Applicants respectfully submit that claims 59-66 and 68-73, which depend from claim 58 and are directed to additional species recited in claim 58, should be rejoined and considered allowable.

In light of the amendments and remarks herein, Applicants submit that the claims are now in condition for allowance and respectfully request a notice to this effect. The Examiner is invited to call the undersigned agent if there are any questions.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT WILL & EMERY LLP



Deborah L. Cadena

Registration No. 44,048

4370 La Jolla Village Drive, Suite 700  
San Diego, CA 92122  
858.535.9001 DLC:JRL  
Facsimile: 858.597.1585  
**Date: March 2, 2005**  
SDO 26559-1.066765.0110